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Supreme Court, U.S.
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No. 98-822

In the

Supreme Court of the United States

FRIENDS OF THE EARTH, *et al.*,
Petitioners,

v.

LAIDLAW ENVIRONMENTAL SERVICES (TOC), INC.,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION AND STATE OF CALIFORNIA AUTO DISMANTLERS ASSOCIATION IN SUPPORT OF RESPONDENT

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QUESTIONS PRESENTED

1. Whether private plaintiffs' action became moot on appeal, due to redressability, where the only potential relief available was civil penalties to the United States Treasury.

2. Whether private plaintiffs are entitled to recovery of attorneys' fees or other litigation costs when they are not the prevailing or substantially prevailing party.

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IDENTITY AND INTERESTS OF AMICI CURIAE

Pursuant to Supreme Court Rule 37.2, Pacific Legal Foundation and the State of California Auto Dismantlers Association respectfully submit this brief amicus curiae in support of Respondent, Laidlaw Environmental Services (TOC), Inc.[1] Written consent was granted by counsel for all parties and lodged with the Clerk of this Court.

Pacific Legal Foundation (PLF) is the largest and most experienced nonprofit public interest law foundation of its kind in America. PLF was founded in 1973 and provides a voice in the courts for mainstream Americans who believe in limited government, private property rights, individual freedoms, and free enterprise. PLF litigates nationwide in state and federal courts with the support of thousands of citizens from coast to coast. PLF is headquartered in Sacramento, California, and has offices in Miami, Florida; Honolulu, Hawaii; Bellevue, Washington; and a liaison office in Anchorage, Alaska.

In its fight to protect fundamental constitutional rights, PLF becomes involved in cases that raise important public policy considerations that may create significant legal precedents. Amicus participation is approved by a voluntary Board of Trustees where PLF's perspective will assist the court in resolving the underlying legal issues. PLF supports a broad view of the public interest and promotes balance and common sense in the adoption, interpretation, and administration of laws and regulations.

PLF has a long-standing interest in environmental issues and has participated in this Court in numerous cases involving the interpretation of federal laws. For example, PLF was amicus

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[1] Pursuant to Supreme Court Rule 37.6, Amici Curiae affirm that no counsel for any party in this case authored this brief in whole or in part; and, furthermore, that no person or entity has made a monetary contribution specifically for the preparation or submission of this brief.

curiae in this Court in *Steel Company v. Citizens for a Better Environment*, 118 S. Ct. 1003 (1998); *Bennett v. Spear*, 520 U.S. 154 (1997); *Douglas County, Oregon v. Babbitt*, 516 U.S. 1042 (1996); *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995); and *Chevron, U.S.A., Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984).

The State of California Auto Dismantlers Association (Association) is a nonprofit organization with approximately 650 members and represents the interests of the 1,400 licensed auto dismantlers in the State of California. Licensed facilities are the only entities authorized to dismantle and salvage vehicles for the recovery and recycling of parts and metals and for properly disposing of the 300 pounds of toxins and hazardous materials in the typical vehicle.

In addition to its lobbying efforts, the Association provides services and training. Business and regulatory information is provided by the Association at conferences and through various publications. For example, the Association has put together an industry guide for complying with the storm water regulations under the Clean Water Act. For several years, the industry has worked hard to ensure compliance with the many environmental regulations that govern these licensed facilities. The industry's compliance with the state's general storm water permit is well documented.

However, these largely family-owned businesses have recently been targeted by environmental activists with threats of litigation for supposed infractions under the Clean Water Act. These activists have sent California auto dismantlers scores of Notices of Intent to Sue. These notices have cost the industry huge sums in legal fees and cash settlements.

The Notices of Intent to Sue inform industry members that they are in violation of the Clean Water Act and have 60 days to comply. Such notices typically result in settlements with the

environmental group for approximately $50,000 and few, if any, onsite environmental issues are addressed. The mere threat of taking a small business to federal court compels the business owner in most cases to seek a monetary settlement with the potential plaintiff.

The allegations in these notices are often vague to the point of unintelligibility. "Evidence" of failure to comply typically entails a mere picture of a puddle in the facility parking lot with an oil sheen on the top. Allegations of harm include claims that there "may be" fewer birds in the area of the facility than elsewhere and that boaters (miles away from the inland facility) have gotten oil on their hands while untangling a propeller on their boat. The notices usually make no attempt to connect the alleged violations to the alleged harms. And while many of these cases could never survive in court, the cost to defend against such accusations is more than the industry or a small family-owned business can support. In some cases, these notices have resulted in the virtual confiscation of the business and even the personal assets of some individuals.

Therefore, the Association has a direct interest in this case that puts at issue the scope of citizen suits under the Clean Water Act. The Association, along with PLF's public policy perspective and litigation experience in support of rational environmental protection and economic rights, will provide a necessary viewpoint on the issues presented in this case.

INTRODUCTION

In crafting the citizen suit provision of environmental laws, this Court has found that Congress sought to "strike a balance between encouraging citizen enforcement of environmental regulations and avoiding burdening the federal courts with excessive numbers of citizen suits." *Hallstrom v. Tillamook County*, 493 U.S. 20, 29 (1989). This Court has also found that

Congress intended citizen suits to "supplement rather than supplant governmental action." *Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation*, 484 U.S. 49, 60 (1987). However, cases like the present case, that seek exorbitant civil penalties for good faith compliance efforts that result in technical violations that cause no harm to the environment, frustrate this congressional policy and unsettle the delicate balance Congress sought. Moreover, as illustrated in the Identity and Interests of Amici Curiae above, the citizen suit is becoming more and more the weapon of choice for activists bent on extorting lucrative money settlements from unsophisticated, small business owners on threat of litigation in federal court. This was never the intent of citizen suits, nor is it good public policy. Citizen suits are an aid to government enforcement. They are not an end in themselves. To stem such abuses, this Court should enforce the rule of law and hold environmental citizen-plaintiffs to the same strict constitutional standing and mootness standards that apply to other private litigants.

STATEMENT OF THE CASE

Laidlaw Environmental Services, Inc. (Laidlaw), owned and operated a hazardous waste incinerator in Roebuck, South Carolina. Waste water was produced by the air pollution control equipment attached to the incinerator. This waste water contained toxic metals and was treated onsite before discharge into the North Tyger River pursuant to a National Pollutant Discharge Elimination System (NPDES) permit issued by the State of South Carolina. Although Laidlaw tried a number of state-of-the-art treatment technologies approved by the state, Laidlaw was unable to meet the discharge limits established in the permit for mercury constituents. This resulted in recurring violations of the NPDES permit for a number of years. In May, 1992, the state filed an enforcement action against Laidlaw. On June 10, 1992, a state court approved a settlement of the suit whereby Laidlaw agreed to pay a $100,000 fine and meet all

discharge standards. By August, 1992, Laidlaw had innovated a technical fix to the discharge problem. Notwithstanding the court-approved settlement, on June 12, 1992, a number of environmental groups sued Laidlaw in federal court under the citizen suit provision of the Clean Water Act, seeking declaratory and injunctive relief, additional penalties, costs, and attorneys' fees.

In a 1997 decision, the United States District Court for the District of South Carolina held that Laidlaw had acted in good faith in addressing its discharge problems and that its discharge exceedences had not caused any harm to the environment because the permit limits had been set artificially low by the state. Nevertheless, the court held that Laidlaw had violated the permit's reporting, monitoring, and discharge standards and was subject to an additional penalty of $405,800. The court did not grant injunctive or declaratory relief to the plaintiffs because of the lack of demonstrated harm and the fact that Laidlaw was then in substantial compliance with its permit and had been for several years.

The plaintiffs appealed, arguing the district court had assessed an inadequate penalty. Laidlaw cross-appealed claiming that plaintiffs lacked standing to bring the suit because they suffered no injury in fact. Relying on the intervening United States Supreme Court decision in *Steel Company v. Citizens for a Better Environment*, 118 S. Ct. 1003, the Fourth Circuit held the case was moot because a civil penalty paid to the United States Treasury would not redress any injury plaintiffs may have suffered.

SUMMARY OF THE ARGUMENT

Petitioners argue that *Steel Company v. Citizens for a Better Environment* does not apply because in this case, and contrary to *Steel Company*, Petitioners allege ongoing or future

violations. But this argument mistakes the holding in *Steel Company* and is insufficient to resuscitate Petitioners' now defunct case.

The Court held in *Steel Company* that the remedial purposes of Article III can be satisfied by claims of future harm, but only if the harm is continuing or a future violation is imminent. Petitioners cannot make such claims in this case because the cited facility has been permanently closed and the offending waste treatment incinerator has been dismantled. This assures there will be no risk of future violations.

Petitioners also argue that *Steel Company* is inapposite because that case is a standing case whereas the present case is a mootness case. Petitioners are wrong. *Steel Company* is very much applicable to the present case.

The district court in this case found that Laidlaw had been in substantial compliance with its waste water discharge permit for an "extended period of time," since at least August, 1992, preceding not only the time of decision but also the time of trial. In fact, Laidlaw was in substantial compliance before the suit was brought and never caused actual harm to the environment. Based on the lack of demonstrated harm to the environment and future risk of harm, the district court denied Petitioners' prayer for both injunctive and declaratory relief. Petitioners never appealed those denials. If follows, therefore, that the Fourth Circuit could have found under *Steel Company* that Petitioners lacked standing. The fact that the court chose to declare the case moot instead, relying on the rationale of *Steel Company*, does not preclude this Court from finding a lack of standing now.

Moreover, under this Court's precedent, the requirements for standing and mootness are essentially the same. The elements of standing must continue to exist at every stage of litigation, not just at the time of the complaint. Therefore, this Court's Article III analysis in *Steel Company* is equally

applicable to the present case and justifies a determination that the case is moot.

Finally, Petitioners argue that *Gwaltney*, 484 U.S. 49, is controlling in this case and not *Steel Company*. They claim that *Gwaltney* is essentially identical on the facts to the present case and this Court implicitly found *Gwaltney* was not moot. However, the Court did not so find. To the contrary, the Court suggested the mootness doctrine would come into play to stop a case like the present case where the defendant has come into compliance during the course of litigation: "Longstanding principles of mootness, however, prevent the maintenance of suit when 'there is no reasonable expectation that the wrong will be repeated.'"

ARGUMENT

I

PUTTING THINGS IN PERSPECTIVE: PETITIONERS HAVE NOT DEMONSTRATED AN IMMINENT THREAT OR ONGOING VIOLATION

Petitioners claim the Fourth Circuit's reliance on *Steel Company v. Citizens for a Better Environment*, 118 S. Ct. 1003, is misplaced because in this case, contrary to *Steel Company*, there is a risk of continuing or future violations under the Clean Water Act. This argument is central to Petitioners' position that their case is not moot and should not be dismissed. However, Petitioners utterly fail to demonstrate the immediacy of such threats.

In the *Steel Company* case, Citizens for a Better Environment (CBE) sent a 60-day Notice of Intent to Sue to The Steel Company alleging the company had not filed certain chemical inventory and release forms required under Sections 312 and 313 of the Emergency Preparedness and Community Right-to-Know Act (EPCRA) of 1986. Before the 60-day notice period had run, The Steel Company filed the

forms with the Environmental Protection Agency (EPA). EPA chose not to pursue an enforcement action but, notwithstanding the *Steel Company* filing, CBE commenced a suit in the Northern District Court of Illinois. The Steel Company filed a motion to dismiss, contending that because the company was in compliance when the complaint was filed, the court had no jurisdiction to hear a case for a present violation, and EPCRA did not authorize citizen suits for wholly past violations. The district court agreed, but the court of appeals reversed, concluding that citizens may seek civil penalties against EPCRA violators who file after the statutory deadline and after receiving notice of intent to sue. This Court granted certiorari and held that plaintiffs did not have Article III standing.

The gravaman of that decision was that the plaintiffs lacked the third requirement of the "irreducible constitutional minimum of standing"—redressability, a likelihood that the requested relief will redress the alleged injury. *Id.* at 1016-17. This Court noted that none of the specified items of relief sought, and none that could be envisioned as "appropriate," would serve to recompense plaintiffs for their alleged harm.

As to civil penalties—the only relief sought by Petitioners on appeal against Laidlaw in the present case—this Court stated:

> [T]he civil penalties authorized by the statute . . . might be viewed as a sort of compensation or redress to respondent if they were payable to respondent. But they are not. These penalties—the only damages authorized by EPCRA—are payable to the United States Treasury. In requesting them, therefore, respondent seeks not remediation of its own injury—reimbursement for the costs it incurred as a result of the late filing—but vindication of the rule of law—the "undifferentiated public interest" in faithful execution of EPCRA. . . . This does not suffice.

Id. at 1018.

After dismissing the claim for civil penalties as a basis for establishing Article III standing, this Court then examined the plaintiffs's request for injunctive relief. This Court observed that injunctive relief "cannot conceivably remedy any past wrong but is aimed at deterring petitioner from violating EPCRA in the future." *Id.* at 1019. However, the Court noted that objective can satisfy Article III's remedial purposes when threatened injury is a basis for the complaint. "If respondent had alleged a continuing violation or the imminence of a future violation, the injunctive relief requested would remedy that alleged harm." *Id.* But the Court concluded there was no such allegation in that case and, on the facts of that case, there appeared no basis for it. *Id.* So it is in the present case. There is no basis for alleging a continuing or imminent future violation.

From the time the complaint was filed and its January, 1997, opinion, the district court found there had been only one monitoring violation and no reporting violations. *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 956 F. Supp. 588, 609 (D.S.C. 1997). In fact, the district court found Laidlaw had been in substantial compliance since two months after the complaint was filed and years before any trial. The court even laid some blame for delayed technical compliance at the feet of petitioners.

> In this case, Laidlaw has been in substantial compliance with all parameters in its NPDES permit since at least August 1992. This includes mercury, all other metals, temperature, pH and all monitoring and reporting obligations. In fact, Laidlaw has been in compliance with the vast majority of its permit requirements for a much longer period of time,

> extending back to March 1991 when the Lancy system was installed. The only mercury violations in 1994 and 1995 were at the levels of 2.7 ppb and 1.6 ppb, respectively, and these would not have been permit exceedences at all had not plaintiffs by their appeal stayed the effective date of Laidlaw's new NPDES permit containing a daily maximum limit for mercury of 10 ppb.

Id. at 611.

Based on the lack of demonstrated harm to the environment, and the fact that Laidlaw was in compliance at the time of the court's decision and had been for an extended period of time, the district court felt compelled to deny the plaintiffs' request for injunctive relief. *Id.* Petitioners did not appeal this denial. Nevertheless, Petitioners doggedly maintain their case is different from *Steel Company* because they have alleged a threat of future violations. But even if Petitioners' failure to appeal the denial of an injunction were not enough to preclude Petitioners' argument from consideration by this Court, Petitioners' allegations of future harm do not satisfy this Court's requirement that the anticipated violation must be either ongoing or imminent.

As a factual matter, there is no *ongoing* threat of harm to the environment or a risk of an *imminent* violation. As the district court found, Laidlaw has been in compliance or substantial compliance with its NPDES permit for years. For this reason, Petitioners were unable to demonstrate in the trial court that they would suffer irreparable injury if injunctive relief were not granted.

> Injunctive relief is not appropriate where the defendant is in compliance or in substantial compliance with the Clean Water Act, *PIRG v. Yates Industries*, 757 F. Supp. 438 (D.N.J. 1991); *citing Weinberger v. Romero-Barcelo*, 456 U.S. 305, 102 S. Ct. 1798, 72 L. Ed. 2d 91 (1982), and a defendant in substantial compliance with its NPDES permit is not required to show that there is no chance of a future permit violation in order to defeat a request for injunctive relief. *Atlantic States Legal Foundation, Inc. v. Tyson Foods, Inc.*, 897 F.2d 1128 (11th Cir. 1990).

Id.

Not only has Laidlaw been in compliance for an extended period of time, but it can now guarantee compliance in the immediate future because the company has ceased operation of the permitted facility and has dismantled the offending waste incinerator. *See* Respondents' Suggestion for Mootness.

But these facts do not deter Petitioners. They unabashedly claim a threat of harm still looms because (1) Laidlaw still has a valid NPDES permit and "may discharge in the future whenever it cares to do so," (2) Laidlaw's retention of its permit indicates Laidlaw's intent to discharge, and (3) Laidlaw has NPDES permits at other facilities. Brief for Petitioners at 8 n.7. However, these allegations are not enough to resuscitate Petitioners' suit. The first two claims are speculative and fail to address the immediacy requirement for subsequent violations. The third claim is simply irrelevant to the present case. As this Court stated in *Steel Company*, such allegations must indicate an *ongoing* violation or an *imminent* future violation. *Steel Company*, 118 S. Ct. at 1019. But, on the facts of this case, there is no basis for such allegations.

II

THE STANDING RATIONALE OF *STEEL COMPANY* APPLIES TO THIS CASE

Besides their putative claims of future violations, there is another reason Petitioners offer to distinguish this case from *Steel Company*. They argue that *Steel Company* is a standing

case while this case is a mootness case. Therefore, Petitioners believe *Steel Company* has no relevance to this case. They are wrong.

The *Steel Company* case was decided after the district court decision in this case but before the decision of the Fourth Circuit. The Fourth Circuit relied entirely on *Steel Company* for its mootness determination. But the irony of this case is that the Fourth Circuit could have relied on *Steel Company* to find that Petitioners had no Article III standing. In fact, this case is a classic *Steel Company* standing case.

As noted in some detail above, the district court expressly found that Laidlaw had been in substantial compliance with its NPDES permit for an "extended period of time"—at least since August, 1992, two months after the complaint was filed in June, 1992—preceding not only the time of decision but also the time of trial. *See Friends*, 956 F. Supp. at 611. In fact, there was sufficient evidence to support a conclusion that Laidlaw was in substantial compliance even before the complaint was filed, thus negating Petitioners' standing claims.

For example, the court found that Laidlaw's monitoring and reporting deficiencies "produced no direct environmental impact." *Id.* at 602. Further, the court found that Laidlaw was in "good faith" compliance since March, 1991, when it installed a new treatment system. *Id.* at 599. And, the court determined the two mercury exceedences subsequent to the filing of the complaint should not have been actual violations because the 10 ppb daily maximum permit limit was set artificially high by the state and could have been set at 200 ppb but for Laidlaw's demonstrated ability to achieve a much lower limit. *Id.* at 609.

Based on these observations and the lack of demonstrated future harm to the environment, the district court denied Petitioners' request for both injunctive and declaratory relief. This left Petitioners only with a claim for civil penalties. And

such a claim, this Court decided in *Steel Company*, does not satisfy the redressability requirement of Article III standing.

The fact that the Fourth Circuit did not employ a direct application of *Steel Company* to the standing issue does not preclude this Court from doing so now. This case should have been decided on standing grounds and not on mootness grounds. *See Gwaltney*, 484 U.S. at 65-66. However, the distinction may be one of little difference. The Fourth Circuit correctly perceived that under this Court's precedent, the standards for mootness and standing are essentially the same.

> In order to have standing, a plaintiff must have suffered an actual or threatened injury in fact; the injury must have been caused by the defendant's complained-of conduct; and the injury must be redressable by the relief sought. *See Steel Company v. Citizens for a Better Env't*, — U.S. —, — - —, 118 S. Ct. 1003, 1016-17, 140 L. Ed. 2d 210 (1998). Moreover, these elements must continue to exist at every stage of review, not merely at the time of the filing of the complaint. *See Arizonans for Official English v. Arizona*, 520 U.S. 43, 117 S. Ct. 1055, 1068, 137 L. Ed. 2d 170 (1997); *Suarez Corp. Indus. v. McGraw*, 125 F.3d 222, 228 (4th Cir. 1997). Otherwise, the action becomes moot. *See United States Parole Com'n v. Geraghty*, 445 U.S. 388, 397, 100 S. Ct. 1202, 63 L. Ed. 2d 479 (1980) (explaining that mootness has been described as "the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)."
>
> *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 149 F.3d 303, 306 (4th Cir. 1998).

It makes little difference, therefore, whether the lower court based its dismissal of this suit on mootness or standing—both are jurisdictional and the rationale expressed in *Steel Company* applies equally to both. At virtually no time did Petitioners qualify to litigate this case because their suit lacked the essential component of redressability. At the beginning as at the end, the only live claim they had was for civil penalties. Since these are paid into the United States Treasury and do not inure to the benefit of the plaintiffs, the imposition of penalties cannot recompense Petitioners for their alleged harm. Therefore, the case should be dismissed.

III

PETITIONERS RELIANCE ON *GWALTNEY* IS MISPLACED AS THAT CASE UNDERCUTS RATHER THAN SUPPORTS PETITIONERS' MOOTNESS ARGUMENT

Petitioners claim that *Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49, is controlling in this case and not *Steel Company*. If this is true, Petitioners still lose.

In *Gwaltney*, this Court considered whether the citizen suit provision in the Clean Water Act authorized citizen suits for wholly past violations. This Court determined the Act did not confer such jurisdiction citing, among other things, the forward-looking language, and the purpose of the citizen suit provision. That case turned on a question of statutory interpretation rather than mootness. Nevertheless, Petitioners claim that *Gwaltney* is like the present case and in *Gwaltney* the Court "implicitly, but clearly, held that the case was not moot." Petitioners' Brief at 17. Whatever petitioners infer from *Gwaltney*, the one thing that is clear is that the Court did not hold the case was not moot, either expressly or implicitly. To the contrary, the Court

suggested a case like the present would be declared moot to protect Article III principles.

According to the Court, the petitioner in *Gwaltney* expressed some worry that the Court's construction of the Clean Water Act

> would permit citizen-plaintiffs, if their allegations of ongoing noncompliance become false at some later point in the litigation because the defendant begins to comply with the Act, to continue nonetheless to press their suit to conclusion. According to petitioner, such a result would contravene both the prospective purpose of the citizen suit provisions and the 'case or controversy' requirement of Article III.

Id. at 386.

To assuage these worries, the Court stated that "[L]ongstanding principles of mootness, however, prevent the maintenance of suit when 'there is no reasonable expectation that the wrong will be repeated.'" *Id.* Thus, the Court envisioned a case like the present case and offered a resolution that undercuts rather than supports Petitioners' argument that their case is not moot and should not be dismissed.

Apparently, however, Petitioners are convinced that the mere allegation of ongoing or future violations is sufficient to overcome a mootness determination, even if the facts show there is no such threat. But, the Court in *Gwaltney* considered this question and came to the opposite conclusion.

According to the Court, allegations of ongoing or future violations may be defeated by a showing that it is "absolutely clear that the alleged wrongful behavior could not reasonably be expected to recur." *Gwaltney*, 484 U.S. at 67 (citing *United States v. Phosphate Export Association, Inc.*, 393 U.S. 199, 203 (1968). Respondent Laidlaw has met this burden. As noted

above, the Laidlaw facility has been permanently closed and the offending waste incinerator has been dismantled. There is no future risk of harm.

> Mootness doctrine thus protects defendants from the maintenance of suit under the Clean Water Act based solely on violations wholly unconnected to any present or future wrongdoing, while it also protects plaintiffs from defendants who seek to evade sanction by predictable "protestations of repentance and reform." *United States v. Oregon State Medical Society*, 343 U.S. 326, 333 (1952).

Id. at 66-67.

CONCLUSION

This Court has consistently held that Article III standing requirements must be met throughout the course of litigation. This Court's decisions in both *Steel Company* and *Gwaltney* affirm this rule. Unless there is evidence of an ongoing violation or a threat of an imminent future violation, the federal courts do not have jurisdiction to entertain the case. In this case, Respondent has demonstrated unequivocally that no ongoing or future harm can occur at the designated site. Therefore, whether Petitioners lack standing or the case is moot, the case should be dismissed.

Such a ruling would not only satisfy the constitutional requirements of a "case or controversy," but would also advance the congressional policy behind citizen suits—to supplement rather than supplant government action. *See Gwaltney*, 484 U.S. at 60. As Amici have discovered first hand, this policy has been subverted. Where no ongoing harm or future risk to the environment is present, activist plaintiffs should not be

allowed to press a "dead" suit to completion just to punish the defendant and to garner attorney's fees. Citizen suits are an aid to government enforcement. They are not an end in themselves.

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Respectfully submitted,

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